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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/393,949 | 09/10/1999 | KAVITA RAMANAN | 1-1 | 3522 |

7590

03/20/2003

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EXAMINER

HYUN, SOON D

ART UNIT

PAPER NUMBER

2663

DATE MAILED: 03/20/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

11

Office Action Summary

Application No.

09/393,949

Applicant(s)

RAMANAN ET AL.

Examiner

Soon-Dong Hyun

Art Unit

2663

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 September 1999.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 14-16, 27 and 28 is/are rejected.
- 7) ☒ Claim(s) 4-13 and 17-26 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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DETAILED ACTION

Drawings

1. Applicant is required to submit a proposed drawing correction in reply to the Form PTO-948 attached to this Office action. However, formal correction of the noted defect may be deferred until after the examiner has considered the proposed drawing correction. Failure to timely submit the proposed drawing correction will result in the abandonment of the application.

Claim Rejections - 35 U.S.C. § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

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3. Claims 1, 3, 14, 16, 27, and 28 are rejected under 35 U.S.C. 102(e) as being anticipated by Choudhury et al (U.S. Patent Number 6,092,115).

Regarding claims 1, 14, 27, and 28, Choudhury et al teaches in Fig. 4, plurality of queues 30a-30i (a set of queues) for storing packets and fig. 3B teaches controller 92 (a link Scheduler) accessing memory 99 of fig. 4 scheduling packets for output buffer 95, computing the queuing delay (See col. 4, lines 51-65) for each queue (step: 270), wherein memory 99 stores occupancy level of each queue (weighted versions) and selecting the queue with the largest queuing delay (step: 275).

Regarding 3, 16, Choudhury et al further teaches in fig.4, q1 (plurality of packets) associated with S flows (fig. 2) and bl (N queues).

Claim Rejections - 35 U.S.C. § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over

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Choudhury et al (U.S. Patent Number 6,092,115)

Regarding claims 2 and 15, Choudhury et al teaches that the queuing delay is computed based on the service rate and queue occupancy.

However, Choudhury et al fails to explicitly teach that the queuing delay is calculated based on the difference between a current time and arrival time. Examiner takes official notice the calculating queuing delays based on the difference between a current time and arrival time is known to one skilled in the art and equivalent in function in computing the queuing delay in Choudhury et al . Hence, one skilled in the art would have motivated to used known methods in computing the queuing delays and is a matter of design choice when consequence of either function produces an similar results. In this case, queuing delays computed using either methods both provide an indication of congestion level. Therefore, it would have been obvious to one ordinary skilled to use a known method of computing queuing delays as a matter of design choice.

Allowable Subject Matter

6. Claims 4-13, and 17-26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. The following is a statement of reasons for the indication of allowable subject matter: In combinations with claims 1, 3, and 9, prior art fails to teach the step of selecting a packet from a head position of a jth one of the N queues, such that a function

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of a given weight and a given delay measure is maximal among all such functions for $j = 1-N$, wherein weight is one of a set of positive weight and Q is a queue length of the j th queue.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Soon-Dong Hyun whose telephone number is (703) 305-4550. The examiner can normally be reached on Monday-Friday from 8:30 A.M. to 5:30 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau Nguyen, can be reached on (703) 308-5340.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.

9. Any response to this action should be mailed to:

Commissioner for Patents

Washington, D.C. 20231

Or faxed to: 703-872-9314 for formal communications intended for entry with a label of

"OFFICIAL" and for informal or draft communications with a label of "PROPOSED" or "DRAFT" (attn: Art Unit 2663, Soon-Dong Hyun).

hy

S. Hyun

03/13/2003

Chau Nguyen
CHAU NGUYEN
SUPERVISORY PATENT EXAMINER
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